

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.41592 of 2017

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioners, seeking the following relief:

“For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon’ble Court may be pleased to issue Writ, Order or direction, preferably a Writ in the nature of Mandamus by declaring the action of respondents in seizing the petitioner No.1 vehicle i.e,Tractor bearing No.AP-22-V-3981 & Trailer Beareing No. AP-22-V-3980 petitioner No.2 vechicle i.e,Tractor bearing No.AP-22-R-2041 & Trailer Beareing No. AP-07-AX-1081 as illegal, arbitrary, high handness and against the principles of natural justice and violative of Article 14,16,19(1) (g), 21, 300 A and 301 of the Constitution of India and to pass pass such other order or orders as this Hon’ble Court may deems fit just and proper in the circumstances of the case.”

[Reproduced verbatim]

2. I have heard the submissions of Sri *G.Rajeshwar Rao*, learned counsel appearing for the petitioners, learned Government Pleader for Mines and Geology appearing for the 1st respondent, and of the learned Government Pleader for Home appearing for the 2nd respondent. I have perused the material record.

3. Learned counsel for the petitioners first submitted that the vehicles were seized while transporting sand. He next submitted that the terms of the G.O.Ms.No.15, dated 19.02.2015, are applicable and the petitioners are entitled to seek release of the vehicles from the 2nd respondent and that the 2nd respondent is empowered to release the vehicles and that the issue is covered by many decisions of this Court including the order, dated 30.10.2017, in W.P.No.34924 of 2017.

4. However, learned Government Pleader for Home appearing for the 2nd respondent, on written instructions, would submit that the

petitioners herein are habitual offenders and that they are repeatedly transporting sand illegally and, therefore, they are not entitled to any relief in this writ petition. He would *inter alia* submit that after seizure of the vehicles, Crime Nos.311 of 2017 & 312 of 2017 are registered under Sections 420 & 379 of the Indian Penal Code on 28.11.2017 & 29.11.2017 respectively against the petitioners by the Station House Officer, Gadwal Rural Police Station, Gadwal, and that the seizure of the vehicles is reported to the Court of the learned Additional Judicial Magistrate of First Class, Gadwal, and therefore, the petitioners are required to make appropriate application/s before the Court of the learned Magistrate for release of the said vehicles.

5. However, learned counsel for the petitioners submits that even if the vehicles are produced before a competent Court, still, as per the terms of the afore-stated G.O., the 2nd respondent/authority concerned is also empowered to consider the request/s of the petitioners for release of the seized vehicles in matters of this nature as per policy decision taken by the Government.

6. Having regard to the submissions and the terms of G.O.Ms.No.15, dated 19.02.2015, the Writ Petition is disposed of with the following directions: 'The petitioners are at liberty to approach the learned Magistrate before whom the vehicles were said to have been produced and file application/s as per the procedure established by law and seek release of the vehicles by bringing to the notice of the Court the policy decision taken by the Government and the terms of the G.O.Ms.No.15, dated 19.02.2015, if the petitioners so desire; or, in the alternative they may make a request to the 2nd respondent by filing appropriate application/s for release of the vehicles; and, if any such application/s comes or come to be filed before the 2nd

respondent, the 2nd respondent is at liberty to pass appropriate orders as per terms of G.O.Ms.No.15, dated 19.02.2015, after examining the competence and jurisdiction to release the vehicles, which were said to have been produced before the Court concerned.' It is needless to state that the application/s, if any, filed by the petitioners before either the Court or the 2nd respondent shall be disposed of on the same day in the interests of justice.

There shall be no order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

Date: 13th December, 2017

Note: Issue C.C. today.

(B/o.)
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